

AMENDED IN SENATE APRIL 3, 2013

SENATE BILL

No. 61

Introduced by Senator Yee

January 8, 2013

An act to amend Sections 225, 226, 229, and 230 of, and to add Section 208.3 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 61, as amended, Yee. Juveniles: solitary confinement.

(1) Existing law permits minors who are detained in juvenile hall for habitual disobedience, truancy, or curfew violation to be held in the same facility as minors who are detained for violating any law or ordinance defining a crime, if they do not come or remain in contact with each other. Existing law also permits the detention of minors in jails and other secure facilities for the confinement of adults if the minors do not come, or remain, in contact with confined adults and other specified conditions are met.

Existing law, the Lanterman-Petris-Short Act, authorizes the involuntary detention for a period of 72 hours for evaluation of persons, including minors, who are dangerous to self or others, or gravely disabled, as defined.

This bill would provide that a minor or ward who is detained in, or sentenced to, any juvenile facility or other secure state or local facility shall not be subject to solitary confinement, as defined, unless the minor or ward poses an immediate and substantial risk of harm to others or to the security of the facility, and all other less-restrictive options have been exhausted. The bill would permit the minor or ward to be held in solitary confinement only in accordance with specified guidelines, including that the minor or ward be held in solitary confinement only

for the minimum time required to address the safety risk, and that does not compromise the mental and physical health of the minor or ward. The bill would require clinical staff to evaluate a minor or ward ~~face to face~~ *face-to-face* within one hour after placement, and every 4 hours thereafter, *to determine the health and mental health status of the minor or ward*, as specified. *This bill would prohibit a minor or ward from being placed in solitary confinement for more than 24 hours in a one-week period without obtaining specified written approval, which requires the consideration of the health and mental health clinical evaluations, as prescribed. This bill would prohibit a minor or ward who, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, from continued solitary confinement, and require the minor or ward to be transported to and evaluated at a Lanterman-Petris-Short Act designated facility.* The bill would ~~require treatment staff to implement an individualized suicide crisis intervention plan, as specified, before subjecting a minor or ward~~ *prohibit a minor or ward who does not reveal signs of mental disorder but who has exhibited suicidal behavior or committed acts of self-harm* ~~to~~ *from* solitary confinement, *except as specified*. By increasing the duties of local juvenile facilities, the bill would impose a state-mandated local program.

(2) Existing law establishes a juvenile justice commission in each county, but authorizes the boards of supervisors of 2 or more adjacent counties to agree to establish a regional juvenile justice commission in lieu of a county juvenile justice commission. Existing law specifies the membership of these commissions, including that 2 or more members shall be persons who are between 14 and 21 years of age, inclusive, and that a regional juvenile justice commission shall consist of not less than 8 citizens. Existing law requires a juvenile justice commission to annually inspect any jail or lockup that, in the preceding calendar year, was used for confinement for more than 24 hours of any minor, and to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court and the Board of State and Community Corrections. Existing law authorizes a commission to recommend to any person charged with the administration of the Juvenile Court Law those changes as it has concluded, after investigation, will be beneficial, and to publicize its recommendations.

This bill would provide that 2 or more members of these commissions shall be parents or guardians of previously or currently incarcerated youth, and one member shall be a licensed social worker, licensed

psychiatrist, or licensed psychologist with expertise in adolescent development. The bill also would increase from 8 to 10 the minimum number of members of a regional juvenile justice commission. The bill would require a juvenile justice commission, as part of its annual inspection of facilities, to review the records of the jail, lockup, or facility as to the use of solitary confinement, and to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court, the county board of supervisors, and the Board of State and Community Corrections. The bill would require the commission to present its report at an annual hearing on the condition of juvenile justice corrections as part of a regularly scheduled public meeting of the county board of supervisors, and to publish the report on the county government Internet Web site. The bill also would require a commission to publicize its recommendations made to any person charged with administration of the Juvenile Court Law on the county government Internet Web site.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 208.3 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 208.3. (a) For purposes of this section, the following
- 4 definitions shall apply:
- 5 (1) "Clinician" means a licensed health or mental health care
- 6 professional.
- 7 (2) "*Health and mental health clinical evaluations*" means
- 8 *evaluations conducted by a licensed health care professional and*
- 9 *a licensed mental health care professional, respectively, to check*
- 10 *the health and mental health status of the minor or ward.*
- 11 ~~(2)~~
- 12 (3) "Minor" means a person who is any of the following:

1 (A) A person under 18 years of age.

2 (B) A person under the maximum age of juvenile court
3 jurisdiction who is confined in a juvenile facility.

4 (C) A person under the jurisdiction of the Department of
5 Corrections and Rehabilitation, Division of Juvenile Facilities.

6 ~~(3)~~

7 (4) “Solitary confinement” means the involuntary holding of a
8 person in a room or cell from which the person is prevented from
9 leaving, in isolation from persons other than guards, facility staff,
10 and attorneys, during hours other than a facility’s sleeping hours.

11 ~~(4)~~

12 (5) “Ward” means a person who has been declared a ward of
13 the court pursuant to subdivision (a) of Section 602.

14 (b) A minor or ward who is detained in, or sentenced to, any
15 juvenile facility or other secure state or local facility shall not be
16 subject to solitary confinement, unless the minor or ward poses an
17 immediate and substantial risk of harm to others or to the security
18 of the facility, and all other less-restrictive options have been
19 exhausted. A minor or ward may be held in solitary confinement
20 only in accordance with all of the following guidelines:

21 (1) The minor or ward shall be held in solitary confinement only
22 for the minimum time required to address the safety risk, and that
23 does not compromise the mental and physical health of the minor
24 or ward.

25 (2) The minor or ward shall be evaluated, within one hour after
26 placement in solitary confinement and every four hours thereafter,
27 face-to-face by a clinician to determine ~~if the minor or ward shall~~
28 ~~remain in solitary confinement~~ *the health and mental health status*
29 *of the minor or ward*. Each *health and mental health clinical*
30 *evaluation* shall be documented and shall include ~~the reason for~~
31 *an assessment of the risks to the minor or ward posed by continued*
32 *placement in solitary confinement*.

33 (3) The minor or ward shall not be placed in solitary
34 confinement for more than 24 ~~consecutive~~ hours in a one-week
35 period without the written approval of the Chief of the Division
36 of Juvenile Facilities, or his or her designee, or the chief probation
37 officer, or his or her ~~designee~~ *designee, who shall not approve*
38 *continued solitary confinement unless he or she has first obtained*
39 *the results of, and considered, the health and mental health clinical*
40 *evaluations*.

1 (4) *If a minor or ward, as a result of mental disorder, is a danger*
2 *to others, or to himself or herself, or gravely disabled, he or she*
3 *shall not be subject to continued solitary confinement, and shall*
4 *be transported to and evaluated at a Lanterman-Petris-Short Act*
5 *designated facility pursuant to Section 5150 or Section 5585.50.*

6 (c) Solitary confinement shall not be used for the purposes of
7 discipline, punishment, coercion, convenience, or retaliation by
8 staff.

9 (d) (1) A minor or ward who *after a clinical evaluation does*
10 *not reveal signs of mental disorder and who* has exhibited suicidal
11 behavior or committed acts of self-harm shall not be subject to
12 solitary confinement, except *pursuant to Section 5150 or Section*
13 *5585.50 or as provided in paragraphs (1) and (2) of subdivision*
14 ~~(b)~~; *(b) and if both of the following conditions are met:*

15 (A) The condition of the minor or ward is monitored closely by
16 a clinician in order to reduce or eliminate the risk of self-harm.

17 (B) Treatment staff implement an individualized suicide crisis
18 intervention plan approved by a clinician within four hours of
19 placing the minor or ward in solitary confinement.

20 (2) The minor or ward shall be moved to an offsite hospital or
21 mental health hospital if the suicide risk is not resolved within 24
22 hours.

23 (e) Each local and state juvenile facility shall document the
24 usage of solitary confinement, including the dates and duration of
25 each occurrence and the reason for placement in solitary
26 confinement. *These records shall affirmatively certify that health*
27 *and mental health clinical evaluations were conducted and the*
28 *results of those evaluations were considered in any decision to*
29 *place a minor or ward in solitary confinement or to continue*
30 *solitary confinement.* These records shall be available for public
31 inspection pursuant to the California Public Records Act (Chapter
32 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
33 the Government Code).

34 (f) Nothing in this section shall be construed to conflict with
35 any law providing greater or additional protections to minors or
36 wards.

37 SEC. 2. Section 225 of the Welfare and Institutions Code is
38 amended to read:

39 225. (a) In each county there shall be a juvenile justice
40 commission consisting of not less than ~~7~~ *seven* and no more than

1 15 citizens. Two or more members shall be persons who are
2 between 14 and 21 years of age, inclusive, if there are available
3 persons between 14 and 21 years of age, inclusive, who are able
4 to carry out the duties of a commission member in a manner
5 satisfactory to the appointing authority. Two or more members
6 shall be parents or guardians of previously or currently incarcerated
7 youth. One member shall be a licensed social worker, licensed
8 psychiatrist, or licensed psychologist with expertise in adolescent
9 development. Each person serving as a member of a probation
10 committee immediately prior to September 15, 1961, shall be a
11 member of the juvenile justice commission and shall continue to
12 serve as such until his or her term of appointment as a member of
13 the probation committee would have expired under any prior law.
14 Upon a vacancy occurring in the membership of the commission,
15 and upon the expiration of the term of office of any member, a
16 successor shall be appointed by the presiding judge of the superior
17 court with the concurrence of the judge of the juvenile court or,
18 in a county having more than one judge of the juvenile court, with
19 the concurrence of the presiding judge of the juvenile court for a
20 term of four years. If a vacancy occurs for any reason other than
21 the expiration of a term of office, the appointee to fill the vacancy
22 shall hold office for the unexpired term of his or her predecessor.

23 (b) Appointments may be made by the presiding judge of the
24 superior court, in the same manner designated in this section for
25 the filling of vacancies, to increase the membership of a
26 commission to the maximum of 15 in any county that has a
27 commission with a membership of less than 15 members.

28 (c) In any county in which the membership of the commission,
29 on the effective date of amendments to this section enacted at the
30 1971 Regular Session of the Legislature, exceeds the maximum
31 number permitted by this section, no additional appointments shall
32 be made until the number of commissioners is less than the
33 maximum number permitted by this section. In any case, that
34 county's commission membership shall, on or after January 1,
35 1974, be no greater than the maximum permitted by this section.

36 SEC. 3. Section 226 of the Welfare and Institutions Code is
37 amended to read:

38 226. In lieu of county juvenile justice commissions, the boards
39 of supervisors of two or more adjacent counties may agree to
40 establish a regional juvenile justice commission consisting of not

1 less than 10 citizens, and having a sufficient number of members
2 so that their appointment may be equally apportioned between the
3 participating counties. Two or more members shall be persons
4 who are between 14 and 21 years of age, inclusive, if there are
5 available persons between 14 and 21 years of age, inclusive, who
6 are able to carry out the duties of a commission member in a
7 manner satisfactory to the appointing authority. Two or more
8 members shall be parents or guardians of previously or currently
9 incarcerated youth. One member shall be a licensed social worker,
10 licensed psychiatrist, or licensed psychologist with expertise in
11 adolescent development. The presiding judge of the superior court
12 with the concurrence of the judge of the juvenile court or, in a
13 county having more than one judge of the juvenile court, with the
14 concurrence of the presiding judge of the juvenile court of each
15 of the participating counties shall appoint an equal number of
16 members to the regional justice commission and the members shall
17 hold office for a term of four years. Of those first appointed,
18 however, if the number appointed is an even number, half shall
19 serve for a term of two years and half shall serve for a term of four
20 years. If the number of members first appointed is an odd number,
21 the greater number nearest half shall serve for a term of two years
22 and the remainder shall serve for a term of four years. The
23 respective terms of the members first appointed shall be determined
24 by lot as soon as possible after their appointment. Upon a vacancy
25 occurring in the membership of the commission, and upon the
26 expiration of the term of office of any member, a successor shall
27 be appointed by the presiding judge of the superior court with the
28 concurrence of the judge of the juvenile court or, in a county having
29 more than one judge of the juvenile court, with the concurrence
30 of the presiding judge of the juvenile court of the county that
31 originally appointed the vacating or retiring member. If a vacancy
32 occurs for any reason other than the expiration of a term of office,
33 the appointee shall hold office for the unexpired term of his or her
34 predecessor.

35 SEC. 4. Section 229 of the Welfare and Institutions Code is
36 amended to read:

37 229. (a) It shall be the duty of a juvenile justice commission
38 to inquire into the administration of the juvenile court law in the
39 county or region in which the commission serves. For this purpose
40 the commission shall have access to all publicly administered

1 institutions authorized or whose use is authorized by this chapter
 2 situated in the county or region, shall inspect those institutions at
 3 least once a year, and may hold public hearings. A judge of the
 4 juvenile court may issue subpoenas requiring attendance and
 5 testimony of witnesses and production of papers at hearings of the
 6 commission.

7 (b) A juvenile justice commission shall annually inspect any
 8 jail, lockup, or facility within the county that, in the preceding
 9 calendar year, was used for confinement for more than 24 hours
 10 of any minor. As part of the annual inspection, the commission
 11 shall review the records of the jail, lockup, or facility as to the use
 12 of solitary confinement, as defined in paragraph (3) of subdivision
 13 (a) of Section 208.3. The commission shall report the results of
 14 the inspection, together with its recommendations based thereon,
 15 in writing, to the juvenile court, the county board of supervisors,
 16 and the Board of State and Community Corrections. The
 17 commission shall present its report at an annual hearing on the
 18 condition of juvenile justice corrections as part of a regularly
 19 scheduled public meeting of the county board of supervisors, and
 20 shall publish the report on the county government Internet Web
 21 site.

22 SEC. 5. Section 230 of the Welfare and Institutions Code is
 23 amended to read:

24 230. A juvenile justice commission may recommend to any
 25 person charged with the administration of any of the provisions
 26 of this chapter those changes as it has concluded, after
 27 investigation, will be beneficial. A commission shall publicize its
 28 recommendations on the county government Internet Web site.

29 SEC. 6. If the Commission on State Mandates determines that
 30 this act contains costs mandated by the state, reimbursement to
 31 local agencies and school districts for those costs shall be made
 32 pursuant to Part 7 (commencing with Section 17500) of Division
 33 4 of Title 2 of the Government Code.